

DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED CHANGES IN THE REGULATIONS

Title 3, California Code of Regulations

Section 3417(b), Mexican Fruit Fly Interior Quarantine

INITIAL STATEMENT OF REASONS/

POLICY STATEMENT OVERVIEW

Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulation is Intended to Address

These regulations are intended to address the obligation of the Secretary of Food and Agriculture to protect the agricultural industry of California from the movement and spread within California of injurious plant pests.

Specific Purpose and Factual Basis

The specific purpose of Section 3417 is to provide for the State to regulate the movement and possible carriers of Mexican fruit fly from the area under quarantine to prevent the artificial spread of the fly to noninfested areas to protect California's agricultural industry.

The factual basis for the determination by the Department that the emergency amendment of Section 3417(b) is necessary is as follows:

Mexican fruit fly is a destructive insect pest of innumerable commercial agricultural crops. Many kinds of fruit, including apple, apricot, avocado, citrus (except lemon and sour lime), guava, nectarine, peach, pear, plum, and pomegranate, and the fruiting bodies of some wild and ornamental plants are known to be hosts or possible hosts of the Mexican fruit fly. Larval feeding reduces the interior of fruit to a rotten mass. Egg punctures admit decay organisms that cause tissue breakdown. Damaged fruit is generally unfit for human consumption. Movement of hosts infested with the larvae of the fly can artificially spread the fly.

On December 2, 2002, one wild sexually mature mated female adult Mexican fruit fly was taken from a trap in the South Pasadena area of Los Angeles County. The detection of a mated female adult Mexican fruit fly is indicative of an incipient infestation in the South Pasadena area of Los Angeles County.

The quarantine area includes the epicenter and a buffer zone extending approximately 4-1/2 miles in each direction from this epicenter. A buffer zone is necessary because the fly can spread naturally (as well as artificially in infested hosts). The boundary line was drawn jointly by the United States Department of Agriculture, the California Department of Agriculture, and the Los Angeles County Agricultural Commissioner and is considered the minimum area around the infested properties that should be regulated to prevent artificial spread of Mexican fruit fly to noninfested areas.

If the fly were allowed to spread and become established in host fruit production areas, California's agricultural industry would suffer losses due to increased pesticide use, decreased production of marketable fruit, and loss of markets if the United States Department of Agriculture or other states or countries enact quarantine against California products which can host and carry the fly. It is estimated that the establishment of Mexican fruit fly could cost an additional \$124 million per year in increased production costs. Mexican fruit fly has been introduced into California a number of times, through the movement of prohibited host fruits and vegetables into the State, and has always been successfully eradicated.

The emergency amendment of Section 3417(b) established approximately 35 square miles surrounding the infestation in the South Pasadena area of Los Angeles County as an area under quarantine for

Mexican fruit fly. The areas surrounding Monterey Park (approximately 70 square miles), Los Angeles County; and, Valley Center (approximately 117 square miles), San Diego County, are also quarantine areas for Mexican fruit fly. To prevent artificial spread of the fly to noninfested areas to protect California's agricultural industry, it is necessary immediately to regulate movement of hosts that can carry the fly from, into and within the infested area and a surrounding buffer area. Therefore, it is necessary to amend this regulation to establish a new quarantine area in the South Pasadena area of Los Angeles County as an emergency action.

Estimated Cost or Savings to Public Agencies or Affected Private Individuals or Entities

The Department of Food and Agriculture has determined that Section 3417 does not impose a mandate on local agencies or school districts, except that agricultural commissioners of counties under quarantine have a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because the Agricultural Commissioner of Los Angeles County requested the change in the regulations.

The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

The cost impact of the changes in the regulations on private persons or businesses is not expected to be significant.

The Department has determined that the proposed action will not have a significant adverse economic impact on housing costs or California businesses, including the ability of California businesses to

compete with businesses in other states. The Department's determination that this action will not have a significant adverse economic impact on businesses was based on the following:

Within the quarantine area, the Department has identified 176 markets/produce vendors. These businesses must maintain quarantine commodities in a manner that precludes exposure to Mexican fruit fly. Approved safeguards include maintaining the commodities indoors, in coolers, in plastic bags, enclosed behind window screen, or covered with fine mesh or plastic. All of these methods are very inexpensive. These businesses may experience a reduction in sales and reduced shelf life of the commodities. Neither of these reductions would represent a significant economic impact.

Within the quarantine area, the Department has estimated there are 120 yard maintenance businesses that must safeguard all host fruit being removed from properties within the quarantine area by placing it in

plastic bags for disposal at a landfill. The plastic bags are inexpensive and there is no extra material for disposal at a landfill, as it would have been removed anyway.

There are 17 nurseries in the area under quarantine that must treat the soil of host plants and strip the fruit of host plants before they may be moved from or within the area under quarantine. The required treatment is a soil drench with diazinon. This treatment does not have to be repeated if the fruit is kept stripped from the plants. The cost of the treatment is low and existing nursery personnel perform the treatment and fruit stripping. The fruit is placed in plastic bags for landfill disposal. The plastic bags are inexpensive and the extra material for landfill disposal does not add appreciably to their existing disposal costs.

No business has gone out of business due to the quarantine. Many businesses have benefited from the sales of safeguarding materials and others have benefited from Mexican fruit fly expenditures by State and Federal governments.

Based on the above information, it was determined that the amendment of Section 3417(b) will not have a significant adverse economic impact on businesses. All costs associated with compliance with the regulation are low and, for the most part, a number of optional ways to comply are available to businesses so they may select the means with the lowest cost and easiest implementation for them. For many businesses, no additional costs were incurred.

Assessment

The Department has made an assessment that the amendment to this regulation would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

Alternatives Considered

The Department of Food and Agriculture must determine that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Information Relied Upon

The Department is relying upon the following studies, reports, and documents in the amendment of Section 3417(b):

“Annual Estimated Economic Impact – Los Angeles County (South Pasadena Area), Mexican Fruit Fly Interior Quarantine,” California Department of Food and Agriculture, Plant Health and Pest Prevention Services, Permits and Regulations, December 30, 2002.

“Establishments Affected by the Mexican Fruit Fly Interior Quarantine, South Pasadena Area, Los Angeles County),” California Department of Food and Agriculture, Plant Health and Pest Prevention Services, Permits and Regulations, December 30, 2002.

“Annual Fruit Fly Quarantine Cost Basis,” California Department of Food and Agriculture, Plant Health and Pest Prevention Services, Permits and Regulations, December 20, 2002.

E-mail of December 27, 2002 to Stephen Brown from Asif Maan and its attachment, "Establishment-Mexican Fruit Fly Quarantine, South Pasadena 2002."

Letter of December 9, 2002 to Don Henry from Cato R. Fiksdal.

Pest and Damage Record #1125502 (December 2, 2002), California Department of Food and Agriculture.